



FH
[REDACTED]

**STATE OF WISCONSIN
Division of Hearings and Appeals**

In the Matter of:

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

CTI/172527

PRELIMINARY RECITALS

Pursuant to a petition filed March 8, 2016, under Wis. Stat. § 49.85(4), and Wis. Admin. Code §§ HA 3.03(1), (4), to review a decision by the Milwaukee Early Care Administration ["MECA"] in regard to Child Care ["CC"], a Hearing was held via telephone from Madison, Wisconsin on April 12, 2016.

The issue for determination is whether the Division of Hearings and Appeals ["DHA"] has jurisdiction to decide the merits of this matter.

There appeared at that time via telephone the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]

Respondent:

Department of Children and Families
201 East Washington Avenue, Room G200
Madison, Wisconsin 53703

BY: [REDACTED] DCF Program Supervisor
Milwaukee Early Care Administration - MECA
Department of Children And Families
1220 W. Vliet St. 2nd Floor, 200 East
Milwaukee, WI 53205

ADMINISTRATIVE LAW JUDGE:

Sean P. Maloney
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Milwaukee County, Wisconsin.

2. The following Claim has been established against petitioner for overpayments of CC: Claim [REDACTED]; June 22, 2014 to August 31, 2014; \$3,405.53.
3. The Wisconsin Department of Children and Families ["DCF"] mailed a written letter notice entitled *Important Notice About Your State Tax Refund and Credits* and dated August 14, 2015 to petitioner's last known address; that notice was received by petitioner; the written notice stated that petitioner's Wisconsin State Tax Refund may be intercepted to repay the CC overpayment identified in *Findings of Fact #2*, above; the written notice also notified petitioner of her appeal rights, including the 30-day time limit for requesting a Hearing and the DHA address to which the Hearing request should be mailed.
4. Petitioner requested a Hearing by a *Request For Fair Hearing* form dated March 5, 2016 that was received by MECA on March 8, 2016 and received by DHA on March 8, 2016 via fax from MECA.

DISCUSSION

An appeal of a tax intercept is timely only if a Hearing is requested within 30 days after the date of the tax intercept notice. Wis. Stat. §§ 49.85(3)(a)2. & (b)2. (2013-14); See also, Wis. Admin. Code § HA 3.05(3)(b) (February 2013). A Hearing request that is not made within the allowed 30 days must be dismissed for lack of jurisdiction. Wis. Admin. Code § HA 3.05(4)(e) (February 2013).

In this case, the tax intercept notice is dated August 14, 2015. As required, the notice was sent to petitioner's last-known address. See, Wis. Stat. §§ 49.85(3)(a)intro. & (b)intro. (2013-14). The notice was received by petitioner. Petitioner's request for a Hearing was not made until March 8, 2016. This is well outside of the allowed 30 days. Thus, petitioner's appeal is not timely and must be dismissed for lack of jurisdiction.

Petitioner testified that in April 2015 she sent a request for a Hearing to MECA that was not received by MECA. However, the tax intercept letter notice was not issued until August 14, 2015 -- so it would not have been possible to request a Hearing in April 2015.

CONCLUSIONS OF LAW

For the reasons discussed above, DHA does not have jurisdiction to decide the merits of this matter.

NOW, THEREFORE, it is

ORDERED

That the petition for review herein and the same is hereby DISMISSED. DCF may certify the total amount of \$3,405.53 to the Wisconsin Department of Revenue, pursuant to Wis. Stat. § 49.85 (2013-14), for purpose of a tax intercept of petitioner to recover the CC overpayment and fee listed in *Findings of Fact #2*, above.

REQUEST FOR A REHEARING

You may request a rehearing if you think this decision is based on a serious mistake in the facts or the law or if you have found new evidence that would change the decision. Your request must be **received within 20 days after the date of this decision**. Late requests cannot be granted.

Send your request for rehearing in writing to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400 **and** to those identified in this decision as "PARTIES IN INTEREST." Your rehearing request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and explain why you did not have it at your first hearing. If your request does not explain these things, it will be denied.

The process for requesting a rehearing may be found at Wis. Stat. § 227.49. A copy of the statutes may be found online or at your local library or courthouse.

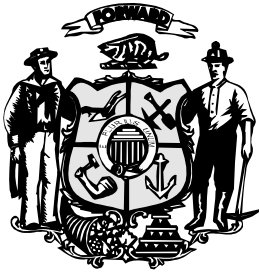
APPEAL TO COURT

You may also appeal this decision to Circuit Court in the county where you live. Appeals must be filed with the Court **and** served either personally or by certified mail on the Secretary of the Department of Children and Families, 201 East Washington Avenue, Room G200, Madison, Wisconsin 53703, **and** on those identified in this decision as "PARTIES IN INTEREST" **no more than 30 days after the date of this decision** or 30 days after a denial of a timely rehearing (if you request one).

The process for Circuit Court Appeals may be found at Wis. Stat. §§ 227.52 and 227.53. A copy of the statutes may be found online or at your local library or courthouse.

Given under my hand at the City of Madison,
Wisconsin, this 16th day of May, 2016

\sSean P. Maloney
Administrative Law Judge
Division of Hearings and Appeals



State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

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The preceding decision was sent to the following parties on May 16, 2016.

Milwaukee Early Care Administration - MECA
Public Assistance Collection Unit